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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,203	10/05/2001	Richard Humpert	60174-021	8894

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EXAMINER

SAETHER, FLEMMING

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/890,203

Applicant(s)

HUMPERT ET AL

Examiner

Flemming Saether

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3,7,8,10,12,15,19,20 and 22-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,9,11,13,14,16-18 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7. 6) ☐ Other:

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***Election/Restriction***

Applicant's election of group I, in the paper number 11, and species A, in paper number 12, is acknowledged. Since applicant did not specifically list which claims were readable on the elected species, the examiner reads claims 1, 2, 4-6, 9, 11, 13, 14, 16-18 and 21 on the elected species. Accordingly, claims 3, 7, 8, 10, 12, 15, 19, 20 and 22-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b). Although the restriction requirement was traversed, no arguments were presented.

***Specification***

The disclosure is objected to because of the following informalities: the title of the invention is not descriptive.

Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "function element" as in claim 1.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4-6, 9, 11, 13, 14, 16-18 and 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the claims "for example" is indefinite in that it is not clear if what is an example is intended to be a limitation. Also, in the claims "ring-like" is indefinite. The claims should be further reviewed to correct any other areas of indefiniteness particularly since the application is based on a foreign parent.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 6, 16-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Herb (US 4,560,311). In the embodiment of Figs. 1 and 2, Herb discloses a function carrier comprising a function element formed as a bolt element (1c) having a head (1a) at one end with a concave fillet (1d) transitioning from the shaft to the head and, a rivet sleeve (2) received on the shaft and moveable in the axial direction having a deformable region (2d) for deformation by the concave fillet (see Fig. 2). The sleeve further having a non-deformable ring portion (the portion between 2b and 2c) having a flat perpendicular sliding end face (2b) for transmission of a rivet force,

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a rectangular cross section and separated from the deformable portion by a shoulder portion (2c) but, having a continuous tubular inner wall.

Claims 1, 2, 4, 5, 6, 9, 11, 13, 16-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Velasco (4,797,044). Velasco discloses a function carrier comprising a function element formed as a bolt element (1) having a head (not labeled) at one end including a concave fillet transitioning from the shaft to the head and, a rivet sleeve (3) received on the shaft and moveable in the axial direction having a deformable region (at the distal end region thereof) for deformation by the concave fillet (see Fig. 8). The sleeve having a "ring-like" portion, a flat perpendicular sliding end face for transmission of a rivet force, a rectangular cross section and separated from the deformable portion by a shoulder portion (shown as member 4) but, having a continuous tubular inner wall. Velasco further discloses the function element to have a tool receiving recess (see Fig. 1, 7-9) for torque transmission and, with security features against rotation formed on the fillet (as see by grooves formed thereon).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negative by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herb or Velasco as applied to claim 1 above, and further in view of Fischer (US 4,943,195). Fisher teaches the function element to be equipped with features providing security against rotation on the end of the head remote from the shaft to prevent (13, or 17). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the device of either Herb or Velasco with rotation preventing features as disclosed in Fischer in order to prevent rotation of the function element which would provide for easier installation.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

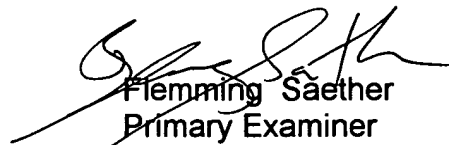
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Flemming Sæther  
Primary Examiner  
Art Unit 3679

June 2, 2003